

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

RM-7990

In the Matter of  
Policies and Rules Concerning  
Interstate Pay-Per-Call  
Services

REPLY COMMENTS OF MCI  
TELECOMMUNICATIONS CORPORATION

MCI Telecommunications Corporation (MCI) hereby submits, through its undersigned counsel, reply comments regarding the petition captioned above.

The state attorneys general (states or Petitioners) have asked the Federal Communications Commission (FCC) to declare that the Commission's pay-per-call (PPC) rules apply to pay-per-call services performed using an 800 exchange. Petition at 1-6, filed Apr. 30, 1992. MCI agrees with the majority of commenters that no further action from the Commission is necessary on this point as Section 64.709 of the Commission's Rules, 47 C.F.R. § 64.709, clearly contains that proposition.<sup>1</sup> As MCI noted in its initial comments on this petition, "[t]he Commission's existing pay-per-call rules clearly apply to 800 services that meet the definition of pay-per-call. ... 800 services are not exempt from this definition." MCI's Comments at 1-2, filed July 8, 1992.

<sup>1</sup> See e.g., Comments of the Alabama Public Service Commission at 2; Comments of Pilgrim Telephone, Inc. at 3; Comments of Sprint at 1-2; Comments of Voicelink, Inc. at 5; and Comments of VRS Billing Systems at 2.

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The states also request this Commission to "take the additional step of prohibiting carriers from providing 800 number service to information providers when the service bills consumers by the use of either tone generation technology, or the use of data supplied through automatic number identification or carrier provided billing detail as a result of the 800 call itself." Petition at 6-7. The states apparently would allow 800 PPC services when the service provides a preamble giving notice of the future billing, and when charges are billed to an independent credit card. Petition at 7.

While MCI acknowledges the need to protect consumers from the few carriers who bill unwary consumers, MCI is concerned that the Commission may restrict the hard-won service options available to consumers. As MCI stated in its initial comments, the Commission should provide an exception for situations in which calling parties provide a credit or charge card number, or in which customers have established a presubscription relationship with the PPC provider. MCI's Comments at 3. MCI therefore agrees with commenters who state that the service may be provided when the consumer exhibits adequate affirmative consent,<sup>2</sup> such as by taking the act of giving a credit card number, or by undertaking a pre-arranged billing agreement with the 800-service provider.<sup>3</sup>

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<sup>2</sup> See Pilgrim Comments at 7 (require "positive acceptance"); and Voicelink Comments at 4-6.

<sup>3</sup> See e.g., AT&T Comments at 4; Consumer Action's Opening Comments at 3-4; and Comments of Southwestern Bell Telephone Co. at 4. See also Nat'l Ass'n of State Utility Consumer Advocates' (continued...)

The National Association of Attorneys General 900 Number Subcommittee (NAAG 900) suggests that since the tariffs of AT&T and Sprint contain restrictions on the use of 800 PPC, service providers will "migrate" to other carriers to provide their unscrupulous services. NAAG 900 Comments at 3, filed July 8, 1992. Specifically, NAAG states that "[e]ven if MCI promulgated a tariff [provision] in the future, failure to enact a rule prohibiting any carrier assigned an interstate 800 number [NXX] code from permitting the service to be used for pay-per-call charges will have the likely result of 'migrating' these deceptive schemes from the major carriers who have banned them to other, smaller carriers." Id. In fact, MCI has included certain restrictions against 800 number abuse in its tariff. MCI's tariff states that:

No provider of pay-per-call services (as defined in the Federal Communications Commission's Rules) subscribing to MCI 800 Service shall use MCI 800 Service in a manner that would result in the calling party being charged for information conveyed during the 800 call unless the calling party has a presubscription agreement with the pay-per-call service provider that allows the calling party to be charged for the call or the calling party discloses a credit or charge card number during the 800 call.

See MCI Tariff F.C.C. No. 1, Section B.6.116, p. 12.3.3, filed July 1, 1992. This language is clearly sufficient to curb the practices about which the states have expressed concern. As stated, Petitioners agree that 800 PPC services billed to an independent

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<sup>3</sup>(...continued)

Comments at 3-4, filed June 24, 1992 (use of 800 number should be restricted to situations involving "affirmative indication" that the customer wishes to subscribe to or pay for the PPC message).

credit card provide adequate notice to the consumer. Petition at 7.

Some commenters state that services provided on an 800 exchange number are by their nature "free" calls,<sup>4</sup> while others ask the Commission to require that 800 services remain free in the future.<sup>5</sup> These comments are beyond the scope of this proceeding and therefore should be rejected.

Finally, MCI reiterates Sprint's statement (Sprint Comments at 3) that if the Commission applies any additional rules to regulate the use of 800 services by pay-per-call providers, it should continue to exclude from the scope of the pay-per-call rules the 800 numbers used by interexchange carriers in the provision of their calling card services. As noted by Sprint, these services are excluded from PPC rules because they are based upon "the existence of a presubscription relationship," 47 C.F.R. § 64.709.<sup>6</sup>

Based on the foregoing, MCI requests that, if the Commission goes forward with a rulemaking on the subject of 800 PPC billing, it should modify the proposal as stated herein. The proposal, thus, should allow lawful 800 pay-per-call services that are billed

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<sup>4</sup> See e.g., Alabama PSC Comments at 3; Consumer Action's Comments at 3; Southwestern Bell Comments at 2-4;

<sup>5</sup> See various letters to Secretary, FCC, from individuals, filed June 24, 1992 ("800 numbers should always mean a no-cost call.")).

<sup>6</sup> Policies and Rules Concerning Interstate 900 Telecommunications Services, Report and Order, 6 FCC Rcd. 6166, 6179 (1991), recon. pending.

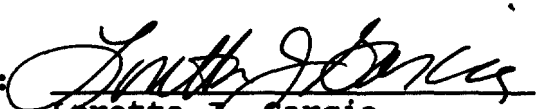
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to a credit card, and services that are billed via a presubscription arrangement between the consumer and the 800-services provider.

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Dated: July 28, 1992

**CERTIFICATE OF SERVICE**

I, Verna K. Supel, do hereby certify that on this 28th day of July, 1992, copies of the foregoing **"Reply Comments of MCI Telecommunications Corporation"** in the Matter of Policies and Rules Concerning Interstate Pay-Per-Call Services in RM-7990 were served by first-class mail, postage prepaid, upon the parties listed on the following attachment.

  
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